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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,248	09/17/2003	STEPHANE J. VIRALLY	19.0285	3330

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SCHLUMBERGER OILFIELD SERVICES  
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EXAMINER

TSAY, FRANK

ART UNIT PAPER NUMBER

3672

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/605,248

Applicant(s)

VIRALLY ET AL.

Examiner

Frank S. Tsay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 16-31, 34, 41 and 43 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32, 33, 35-40 is/are allowed.
- 6) ☒ Claim(s) 1, 4-15 and 42 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/17/03, 12/15/03, 5/11/04  
5/17/04, 2/10/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Claims 16-31, 34, and 43 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 21, 2005.

Applicant's election of Invention (I) in the reply filed on July 21, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-15 rejected under 35 U.S.C. 102(e) as being anticipated by Finke et al (US 6,920,085).

Finke et al discloses a downlink system which comprises all of the claimed structure including at least one mud pump 2 for pumping drilling fluid from storage tank 1 to a drilling system through a standpipe 16, and the return fluid from the wellbore is flown through a return line 22 to the drilling fluid storage tank (see Fig. 1). The drilling fluid

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modulator is anticipated by the transmitter assembly 6, which is in fluid communication with the standpipe 16 and the return line 22 and serves to modulate the mud flow through a bypass line 7 for discharging drilling fluid into the storage tank. The flow restrictor is met by restrictor 8 or 11, one of which is disposed upstream and another downstream of the modulator and is parallel or in the same general direction of the modulator. The flow diverter is met by the diverter 9, which is disposed upstream of the modulator relative to the shut-off valve 10 and is in the general parallel direction of the modulator as the restrictor. The claimed relative position of the modulator relative to the flow direction fails to distinguish from that of Fig. 2A, as the modulator 6 is either parallel to the same direction of the bypass line or perpendicular to the flow direction of the discharge line 37 or return line 22. The electronic control system is met by the electronic surface transmitter control system 90 (col. 7, lines 24+).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 42 is rejected under 35 U.S.C. 102(b) as being anticipated by Moll (US 4,774,694).

The at least one primary drilling fluid pump is met by pump 28 which is in fluid communication with a drilling fluid tank at the intake of the pump shown in Fig. 1. The stand pipe is also anticipated by discharge line 29 as it is known to connected to a standpipe at the drilling rig. The electronic circuitry coupled to the pump is anticipated

by the control unit 38 (Fig. 1) having electronic circuit 63c (Fig. 7) to modulate and transmit the pump speed information remotely.

***Allowable Subject Matter***

Claims 2, 3 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 32, 33, 35-40 are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoover, Dower, and Dhindsa et al all show pumps and controls.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank S. Tsay whose telephone number is (571) 272-7038. The examiner can normally be reached on Monday thru Friday, 7:30am-5:00 pm, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (571)272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frank S Tsay  
Primary Examiner  
Art Unit 3672

9/21/05